



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 27, 1992

Mr. Robert Giddings  
The University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2981

OR92-43

Dear Mr. Giddings:

On December 12, 1991, we received your request for an open records decision pursuant to section 7 of the Open Records Act, V.T.C.S. art. 6252-17a. Your request was assigned ID# 14451.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 7(a) to submit that request to the attorney general within 10 days to the governmental body's receipt of the request for information. The time limitation found in section 7 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.-Austin 1990, no writ). When a request for an open records decision is not made within the time prescribed by section 7(a), a heightened presumption of openness arises which can only be overcome by a compelling demonstration that the information should not be made public. *Id.*

However, we realize that the short time frame prescribed by section 7(a) may occasionally impose a substantial burden on governmental bodies seeking to comply with the act. Accordingly, when we receive an otherwise timely request for an open records decision that lacks some information necessary for us to make a determination, it has been our policy to give the governmental body an opportunity to complete the request. On December 30, 1991, we asked you to submit to this office copies of the documents requested by Mr. Kirk Bohls of the Austin American-Statesman and an explanation as to why the release of those documents would

unduly interfere with law enforcement efforts. To date we have not received your reply.

The Open Records Act places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). Without the information we requested of you, your request for an open records decision remains incomplete.

Consequently, this office cannot consider the exceptions to required public disclosure you raise regarding this request, and we are closing the file. Should you at some future date request that this matter be reopened and considered, we will not consider your request timely, and will consider all discretionary exceptions to required public disclosure waived unless you can demonstrate compelling reasons why the information should not be released. *Hancock, supra*. In the absence of such a compelling demonstration, we find that you have not met your burden under the heightened presumption of openness and must release the requested information. If you have questions regarding this matter, please refer to ID# 14451.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/RWP/lcd

Ref.: ID# 14451

cc: Kirk Bohls  
Reporter  
Austin American-Statesman  
P. O. Box 670  
Austin, Texas 78767